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**BULLETIN NO. 11
CHANGES FOR 2007
November 29, 2006
Revised February 5, 2007**

TO: Assessors
Equalization Directors

FROM: State Tax Commission (STC)

RE: **PROCEDURAL CHANGES FOR THE 2007 ASSESSMENT YEAR**

There are several procedural changes for the 2007 assessment year. The purpose of this bulletin is to provide instruction for the procedural changes in the following subjects:

- A) **The Inflation Rate Used in the Calculation of 2007 Capped Value.**
- B) **The 2007 Model Notice of Assessment, Taxable Valuation and Property Classification Required by Michigan Compiled Law (MCL) 211.24c.**
- C) **The Federal Poverty Guidelines Used in the Determination of Poverty Exemptions for 2007.**
- D) **Updated Multipliers for Freestanding Communication Towers.**
- E) **Board of Review Denial of Classification Appeal.**
- F) **Authority to Correct an Incorrect Uncapping (P.A. 23 of 2005).**
- G) **Qualified Errors (P.A. 13 of 2006).**
- H) **Changes in Classification of Agricultural Real Property. (Revised 2-5-07).**
- I) **Definition of Mutual Mistake of Fact.**
- J) **Idle Equipment.**
- K) **Policy on Submission of MCL 211.154 Petitions**

Please note the passage of public acts, which create the Qualified Forest Exemption (MCL 211.7jj[1]) do not go into effect until 2008. Forms and instructions will be available during 2007.

A. Inflation Rate Used in the 2007 Capped Value Formula.

The inflation rate, expressed as a multiplier, to be used in the 2007 Capped Value formula is 1.037. The 2007 Capped Value Formula is as follows:

$$\text{2007 CAPPED VALUE} = (\text{2006 Taxable Value} - \text{LOSSES}) \times 1.037 + \text{ADDITIONS}$$

The preceding formula does not include 1.05 because the inflation rate multiplier of 1.037 is lower than 1.05.

B. Model Notice of Assessment, Taxable Valuation, and Property Classification (MCL 211.24c) for 2007.

Forms L-4400 (1019) and L-4400LH (4093) may be found on the Treasury Department Web site at www.michigan.gov/treasury. On the main Treasury page, click on Local Government, then Forms/Instructions, then **Property Tax – Board of Review**, and then click on **#4093 and/or #1019**.

Form L-4400 (1019) is the 2007 Notice of Assessment, Taxable Valuation, and Property Classification. Form L-4400LH (4093) is the form used when the assessor does not establish separate parcel codes for Leasehold Improvements (LHI). Please see the STC memo dated July 17, 2003, which can be found at www.michigan.gov/treasury, click on Local Government and then State Tax Commission, under the heading **Letters/Memos/Correspondence**.

C. Federal Poverty Guidelines Used in the Determination of Poverty Exemptions for 2007.

MCL 211.7u, which deals with poverty exemptions, was significantly altered by PA 390 of 1994 and was further amended by PA 620 of 2002. These changes were explained to assessors in STC Bulletin No. 5 of 1995 and page 3 of STC Bulletin No. 1 of 2003.

One of the provisions of PA 620 of 2002 is that local governing bodies are required to set income levels for their poverty exemption guidelines and that those income levels SHALL NOT BE SET LOWER by a city or township than the federal poverty guidelines updated annually by the U.S. Department of Health and Human Services. This means, for example, that the income level for a household of 3 persons SHALL NOT be set lower than \$16,600 which is the amount shown on the following chart for a family of 3 persons. The income level for a family of 3 persons may be set higher than \$16,600.

FEDERAL POVERTY GUIDELINES FOR 2007 ASSESSMENTS

Following are the federal poverty guidelines for use in setting poverty exemption guidelines for 2007 assessments.

Size of Family Unit	Poverty Guidelines
1	\$ 9,800
2	\$ 13,200
3	\$ 16,600
4	\$ 20,000
5	\$ 23,400
6	\$ 26,800
7	\$ 30,200
8	\$ 33,600
For each additional person, add	\$ 3,400

IMPORTANT NOTE: PA 390 of 1994 states that the poverty exemption guidelines established by the governing body of the local assessing unit **SHALL** also include an asset level test.

D. Updated Multipliers for the Valuation of Free-Standing Communication Towers.

State Tax Commission Bulletin No. 3 of 2000 contains guidance to assessors regarding the valuation of free-standing communication towers (See pages 7 to 9 of STC Bulletin No. 3 of 2000.)

Listed below are updated multipliers for the valuation of freestanding communication towers by the cost approach to value for assessment year 2007.

Multipliers for Freestanding Communication Towers

AGE	MULTIPLIER	AGE	MULTIPLIER
1	.97	21	.91
2	1.00	22	.88
3	1.07	23	.89
4	1.06	24	.89
5	1.04	25	.90
6	1.02	26	.92
7	1.02	27	.99
8	1.01	28	1.08

9	1.01	29	1.09
10	1.01	30	1.13
11	1.00	31	1.15
12	.99	32	1.30
13	.99	33	1.39
14	.98	34	1.41
15	.98	35	1.51
16	.95	36	1.65
17	.94	37	1.79
18	.94	38	1.94
19	.94	39	2.03
20	.92	40	2.14

E. Board of Review Denial of Classification Appeal.

The State Tax Commission at their meeting on October 25, 2005 adopted the following regarding property classification appeals:

1. The Commission eliminated the use of form 4036, which is used only to request a petition to appeal.
2. Beginning in 2006, the Commission **required Boards of Review** with their notice of denial of a classification appeal **to provide form 2167**, which is the petition for appeal to the STC, to the taxpayer. This form may be found on the Treasury Department Web site at www.michigan.gov/treasury. On the main Treasury page, click on Local Government, then Forms/Instructions, then Property Tax Forms – Classification Appeals.

F. Authority to Correct an Incorrect Uncapping (P.A. 23 of 2005).

P.A. 23 of 2005 was enacted into law on May 23, 2005 with an effective date of May 23, 2005. This law grants the July or December Board of Review the authority to correct the taxable value of property which was previously uncapped (due to a perceived transfer of ownership) if the assessor later determines that there had **NOT** been a transfer of ownership of that property after all. This authority applies to the current year and the 3 immediately preceding years. **Please see Bulletin No. 9 of 2005 for more details.**

G. Qualified Errors (P.A. 13 of 2006).

Public Act (PA) 13 of 2006 was enacted into law on February 2, 2006 with an effective date of February 2, 2006. This law amended 211.53b to grant the July or December Board of Review the authority to correct a qualified error. Qualified errors are defined in the act as:

- (a) A clerical error relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes.
- (b) A mutual mistake of fact.
- (c) An adjustment under section 27a(4) – taxable value or an exemption under section 7hh(3)(b) – qualified start-up business exemption.
- (d) For board of review determinations in 2006 through 2009, 1 or more of the following:
 - (i) An error of measurement or calculation of the physical dimensions or components of the real property being assessed.
 - (ii) An error of omission or inclusion of a part of the real property being assessed.
 - (iii) An error regarding the correct taxable status of the real property being assessed.
 - (iv) An error made by the taxpayer in preparing the statement of assessable personal property under section 19.

Items A, B and C mentioned above are not changes in or expansions of the authority of the July or December Board of Review, but are now defined as qualified errors. P.A. 13 of 2006 did not change the language that a correction may be made in the year the qualified error was made or the following year only. This means that the December 2006 Board of review CAN correct errors for 2006 and 2005. **Please see Bulletin 5 of 2006 for more information on Qualified Errors.**

H. Changes in Classification of Agricultural Real Property.

A number of Public Acts passed in 2006, which effect the classification of Agricultural Real Property. They include:

1. P.A. 214 of 2006 - Amends MCL 211.34c

(iv) Raising livestock, bees, fish, fur-bearing animals, or poultry, including farming operations that harvest cervidae on site where not less than 60% of the cervidae were born as part of the farming operation. As used in this subparagraph, "livestock" includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

Those properties that do meet the statutory requirement for inclusion in the Agricultural Real Property Classification must also meet the requirements of MCL 211.34c (5) “ *If the total usage of a parcel includes more than 1 classification, the assessor shall determine the classification that most significantly influences the total valuation of the parcel.*”

On many occasions a private cervidae operation will include lodging in the form of a lodge, motel, or hotel for use by clients of the operation. This use is a commercial use and if the value of these amenities on the parcel exceeds the value of the land and buildings necessary to the farm operations, then the classification should be Commercial Real Property. If these commercial portions of the parcel are of lesser value, then the parcel should be classified as Agricultural Real Property.

MCL 211.7ee (4) For property classified as agricultural, and upon receipt of an affidavit filed under subsection (2) for property not classified as agricultural, the assessor shall determine if the property is qualified agricultural property and if so shall exempt the property from the collection of the tax as provided in subsection (1) until December 31 of the year in which the property is no longer qualified agricultural property as defined in section 7dd. An owner is required to file a new claim for exemption on the same property if requested by the assessor under subsection (2).

Calculation of Qualified Agricultural Exemption: MCL 211.7dd (d) ... Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other **commercial or industrial purposes** is not qualified agricultural property. ...

The Qualified Agricultural Exemption percentage should be calculated using the formula $\text{TCV of Qualified Agricultural Property} \div \text{Total TCV of the Property} =$ the percentage of Qualified Agricultural Exemption the property is entitled to. This formula applies only if more than 50% of the property is used for a Qualified Agricultural Use as described by MCL 211.7dd (d) and MCL 324.36101 (b).

Example 1: 160 acre parcel, 140 acres of which are used for the raising and harvesting of cervidae, 20 acres used as lodge, shooting range, and office space.

Qualified Agricultural Use: 140 acres X \$1,500/Acre = \$210,000

Non-Qualified Agricultural Use: 20 acres X \$2,500/Acre = \$50,000 plus Lodge = \$350,000 plus Office = \$50,000

Percent of Qualified Agricultural Exemption is $\$210,000 \div \$660,000 = 32\%$

The commercial use of this property exceeds the agricultural usage of this property and the correct classification is Commercial Real Property (MCL 211.34c (5)).

Example 2: 160 acre parcel, 150 acres of which are used for the raising and harvesting of cervidae, 10 acres used as a shooting range and a small cabin used by clients.

Qualified Agricultural Use: 150 acres X \$1,500 = \$225,000

Non-Qualified Agricultural Use: 10 acres X \$2,500 = \$25,000 plus \$50,000 cabin

Percent of Qualified Agricultural Exemption is $\$225,000 \div \$300,000 = 75\%$

The agricultural use of this property exceeds the commercial usage of this property and the correct classification is Agricultural Real Property (MCL 211.34c (5)).

Any captive cervidae operation subject to DNR license must indicate the license number in the description area of the assessment roll or on a spot so designated on that roll.

2. P.A. 278 of 2006 – Amends 211.34c

(iv) Raising livestock, bees, fish, fur-bearing animals, or poultry, including operating a game bird hunting preserve licensed under part 417 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.41701 to 324.41712, and also including farming operations that harvest cervidae on site where not less than 60% of the cervidae were born as part of the farming operation. As used in this subparagraph, "livestock" includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

Properties subject to this definition may also include lodging and similar buildings and dog training facilities. These facilities must be treated the same as in the description above referring to captive cervidae and MCL 211.34c (5). In some instances, no other farming operation may occur on the property. Some of these operations will plant cover crops only and will not harvest for sale any plantings. Dogs, having been specifically excluded from the description of the Agricultural Classification, a facility the primary function of is to train bird hunting dogs will not qualify for the Agricultural Classification even if an occasional bird hunt occurs.

All operations included under this act must be licensed under part 417 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.41701 to 325.41712. This act requires a license that must be renewed every three years. The license expires on June 30th thus if the property qualifies on the previous December 31, the classification will continue until the end of the year. The assessor should familiarize him/herself with MCL 324.41703, 324.41706,

324.41708 and 324.41712 regarding the DNR Game Bird Hunting Preserve license:

As with expired licenses, a revoked license will not affect the classification of the property until the following assessment cycle.

3. P. A. 376 of 2006 – Amends 211.34c

Added to the description of agricultural real property is item (v) Raising, breeding, training, leasing or boarding horses. This grants the Agricultural Classification to operations such as equestrian centers, learn to ride operations, trail ride operations, carriage for hire operations, stables in cities like Detroit and Mackinac Island, horse race operations and other similar operations. As in cervidae and bird hunting preserves, lodging and other facilities may be included provided they do not exceed the value of the agricultural operations.

Refer to discussion in item 1 (P.A. 214 of 2006) regarding the calculation of any qualified agricultural exemption.

I. Definition of Mutual Mistake of Fact.

The State Supreme Court on June 28, 2006, issued a decision in Ford Motor Company v City of Woodhaven (No 127422), Ford Motor Company v City of Sterling Heights (No. 127423) and Ford Motor Company v Township of Bruce (No. 127424) regarding Mutual Mistake of Fact that indicated in part:

These cases call on this Court to interpret the meaning and applicability of the phrase “mutual mistake of fact” as it is used in MCL 211.53a. In each of these cases, petitioner Ford Motor Company (Ford) filed a personal property statement with the appropriate taxing jurisdiction, the respective respondents. But Ford misreported some of the information in its personal property statements. Because respondents’ assessors accepted and relied on Ford’s personal property statements as accurate when calculating Ford’s tax liability, respondents issued tax bills for amounts in excess of what would have been due had the statements been accurate. Ford paid the taxes, but it later sought refunds under MCL 211.53a when it discovered the errors, claiming the excessive taxes were paid because of a mutual mistake of fact.

We hold that Ford has stated valid claims of mutual mistake of fact that were intended to be remedied under MCL 211.53a. In these cases, Ford and respondents shared and relied on an erroneous belief about a material fact that affected the substance of the transactions. Our conclusion is consistent with the Legislature’s intent and the peculiar meaning the term “mutual mistake of fact” has acquired in our law. In dismissing Ford’s petitions, the Michigan Tax Tribunal (MTT) adopted a wrong principle and misapplied the law by failing to give the proper meaning to the legal term “mutual mistake of fact.”

Further, we 3 hold that the MTT abused its discretion when it failed to allow Ford to amend its petition against respondent Bruce Township.

The full text of the decision can be found on the Supreme Court Website.

J. Idle Equipment.

The State Tax Commission at their December 14, 2005 meeting accepted the Michigan Tax Tribunal decision in Place Machine Corporation v City of West Branch as precedent setting related to idle equipment claimed under P.A. 198 of 1974.

This decision issued March 6, 1989, docket number 83622 indicated in part:

The idle equipment allowance and the Act 198 new facilities certificate are distinct from one another in purpose, yet wholly compatible. The Assessor's manual as the statutorily mandated assessment reference source, MCL 211.10e provides for an idle equipment allowance as a valuation step in the personal property assessment process. The manual makes no referenced distinction between non-IFT and IFT personalty, either of which, if idle, will have a suppressed utility, which, it appears, should be recognized in the assessment process.

The decision goes on to indicate:

The Assessor's Manual procedure for measuring the value of personal property for assessment purposes, including the idle equipment allowance, was in effect prior to the 1974 enactment of Act 198. It must be assumed that, at the time Act 198 was enacted, the legislature was aware of the manner in which personal property assessments and SEVs were computed, using the idle adjustment where applicable. The legislature, in Act 198, provided no exception to the method of valuing IFT property but, rather, specified that the SEV, as commonly developed, be the basis for the industrial facilities tax levy. It must be said to have been intended that the tax benefit of Act 198 be the result of an assessment process, which encompasses the idle equipment allowance as a considered part of its computation.

K. Policy on Submission of MCL 211.154 Petitions.

At their meeting on September 26, 2006 the State Tax Commission adopted the following policy regarding MCL 211.154 petitions.

- The Commission does not have jurisdiction to hear a taxpayer request to remove personal property from the roll when the taxpayer did not file or did not timely file a personal property statement.

- The Commission does have jurisdiction to remove real property from the roll. Examples include but are not limited to: incorrect measurement, errors of inclusion – pole barn not built or placed on an incorrect parcel.
- The Commission does not have jurisdiction to add or remove property for a period before the last change of ownership of the property.
- The Commission expects assessors to provide all required information at the time of filing the 154 petition. This includes, fully filling out the form with all required information and providing a record card or applicable personal property statement(s).
- The Commission expects assessors will file to remove real or personal property when they discover a correction needs to be made and when the Commission has jurisdiction. For example, a taxpayer timely filed their personal property statements. An audit results in two years of underpayment by the taxpayer and one year of overpayment. The Commission expects the assessor to file all three years.
- The Commission does not approve of “netting out” changes. Using the above example, it would not be appropriate to “net out” the overpayment and underpayment, all three years should be filed.